

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

• • R E M A R K S / A R G U M E N T S • •

The Advisory Action of June 24, 2005 and Office Action of March 9, 2005 have been thoroughly studied. Accordingly, the following remarks are believed to be sufficient to place the application into condition for allowance.

Claim 1-20 are pending in this application.

Claims 1-8 and 10-20 stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 5,787,923 to Shea et al. in view of U.S. Patent No. 4,832,074 to Li.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Shea et al. in view of Li and further in view of U.S. Patent Application Publication No. 2004/0094204 A1 to Lin.

For the reasons set forth below it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

In the Advisory Action the Examiner states that:

Applicant's remarks/arguments filed on 6/9/05 have been fully considered but they are not persuasive with respect to claims 1-20. Applicant argues that Li '074 fails to teach the hub assembly comprising a "one-piece cast or molded unitary structure" as recited in independent claims. Li '074 shows the hub assembly comprising a one-piece cast or molded structure (37 or 17) see figure 10. (underlining added for emphasis).

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

The Examiner's position is incorrect.

Applicant's independent claim 1 requires, in part:

...a one-piece, cast or molded unitary structure that includes:
a latch gear having a plurality of teeth that cooperate with a
rewinding latch mechanism, and
a substantially cylindrical surface upon which a hose can be
wound. (note: two structural elements)

Applicant's independent claim 10 requires, in part:

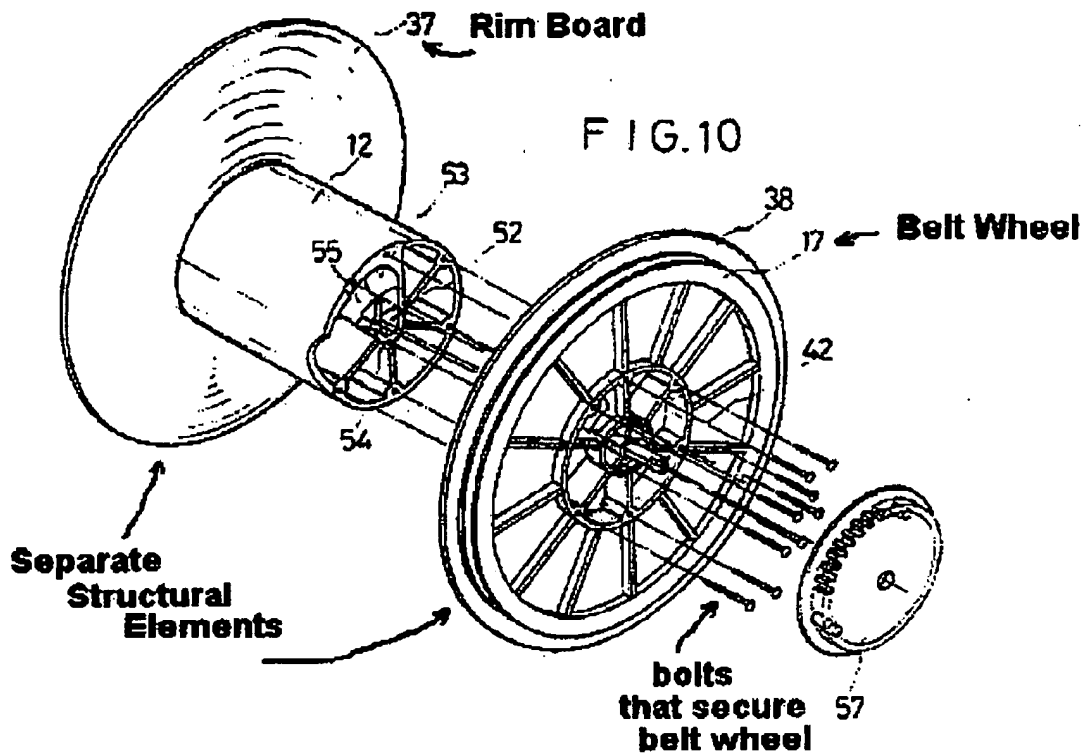
...a single unitary structure:
a central hub;
a plurality of spokes extending radially from the central hub;
a plurality of hub sections provided at the radial ends of the plurality of
spokes which define a cylindrical surface upon which a hose can be wound;
an annular bracing element connected between the plurality of spokes; and
a latch gear provided on the annular bracing element. (note: five structural
elements)

Applicant's independent claim 18 requires, in part:

a) providing a one-piece cast or molded hub assembly that comprises as a
single unitary structure:
a central hub;
a plurality of spokes extending radially from the central hub;
a plurality of hub sections provided at the radial ends of the
plurality of spokes which define a cylindrical surface upon which a hose can be
wound; and
a latch gear...(note: four structural elements)

Figure 1 of Li which the Examiner relies upon is presented herebelow:

Appl. No. 10/698,720
 Amdt. Dated July 11, 2005
 Reply to Office Action of March 9, 2005



In the Advisory Action the Examiner has specifically relied upon Fig. 1 of Li as showing "the hub assembly comprising a one-piece or molded unitary structure (37 or 17)."

However, the Examiner will note:

1) The rim board 37 on the right-hand side of Fig. 10 is not a molded unitary structure which includes both the latch gear (having a plurality of teeth that cooperate with a rewinding latch mechanism) and the substantially cylindrical surface (upon which a hose can be wound)

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

which are required to be part of the molded unitary structure of applicant's independent claim 1.

1) the belt wheel 17 on the left-hand side of Fig. 10 is likewise not a molded unitary structure which include both the latch gear (having a plurality of teeth that cooperate with a rewinding latch- mechanism) and the substantially cylindrical surface (upon which a hose can be wound) which are required to be part of the molded unitary structure of applicant's independent claim 1.

Neither the belt wheel 17 nor the rim board 37 of Li includes the two structural elements of applicant's independent claim 1.

The Examiner should note that the belt wheel 17 is attached to rim board 37 by the bolts that pass through the belt wheel 17 into the rim board 37.

Therefore the belt wheel 17 and rim board 37 do not comprise a molded unitary structure together.

And since the belt wheel 17 and rim board 37 are separate structural elements, Li does not teach a molded unitary structure which include both the latch gear (having a plurality of teeth that cooperate with a rewinding latch- mechanism) and the substantially cylindrical surface (upon which a hose can be wound) which are required to be part of the molded unitary structure of applicant's independent claim 1.

In anything, the rim board of Li includes a substantially cylindrical surface (upon which a hose can be wound) and there is an additional separate "small belt wheel 57" that is attached to the belt wheel.

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

However, it is clear that Li cannot be relied upon as teaching or suggesting applicant's claimed cast or molded integral structure that includes both a latch gear and a substantially cylindrical surface (upon which a hose can be wound).

Applicant's independent claims 10 and 18 require other structural elements that are in addition to the latch gear and the cylindrical surface upon which a hose can be wound.

Inasmuch as Li fails to teach or suggest a molded unitary structure that includes a latch gear and a cylindrical surface (upon which a hose can be wound), Li does not teach or suggest a molded unitary structure that includes the additional structural elements recited in applicant's independent claims 10 and 18.

The Examiner's position that "Li '074 shows the hub assembly comprising a one-piece cast or molded structure (37 or 17) see figure 10" is incorrect as applied to applicant's pending claims, because Li does not teach a one-piece cast or molded structure that includes all the structural elements required by applicant's claimed invention.

Therefore the combination of Li and Shea et al. does not render applicant's claimed invention obvious within the meaning of 35 U.S.C. §103.

The Examiner is respectfully requested to reconsider and withdraw the rejection of the claims that is based upon Li as teaching "a one-piece cast or molded structure (37 or 17)."

The teachings of Li in no way suggest making the very complicated assembly of Shea et al. a one-piece integral structure.

As held by the federal circuit in *Smithkline Diagnostics, Inc. v. Helena Laboratories*

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

Corp.:

The Examiner cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention; the Examiner has the burden to show some teaching or suggestion in the references to support their use in the particular claimed combination. *Smithkline Diagnostics, Inc. v. Helena Laboratories Corp.*, 8 USPQ 2d 1468, 1475 (Fed. Cir. 1988)

As further held by the CCPA in *In re Wesslau*:

It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. *In re Wesslau*, 147 USPQ 391, 393 (CCPA 1965).

Absent reliance upon applicant's own disclosure, it is doubtful that one skilled in the art having the teachings of Shea et al. and Li available would have considered it obvious to combine the teachings of the Shea et al. and Li in the manner suggested by the Examiner.

Note for example, the hose carrier 80 of Shea et al comprises two opposing circular hubcap shaped members 84 having central generally flat portions 86 connected to one another. These hubcap shaped members 84 are connected together by four studs 116 which are held in place by nuts 107 as shown in Fig. 1. As can be seen from Fig. 1 the hubcap shaped members 84 have stepped radially outer peripheral surfaces that, when attached together form the surface of the reel upon which the hose 12 is wound. The flat portions 86 of the hubcap shaped members 84 which are connected together by studs 116 form a chamber in which spiral spring 82 which forms the

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

rewinding mechanism is positioned. Spiral spring 82 is contained in the chamber by spring cover plate 102.

If one attempted to modify Shea et al. in view of Li, the result would be the elimination of the chamber which Shea et al. requires to contain spiral spring 82. This is simply because of the differences in structure between Li and Shea et al.

Moreover, it is noted that the parallel ratchet plates 128 of Shea et al. which are formed with teeth 142 are connected to the outer portion of latch hub 26.

Accordingly, if one attempted to modify Shea et al. in view of Li as the Examiner suggests, the resulting structure would either not have the ratchet plates 128 formed integrally with the reel (a configuration which Li does not teach and therefore does not suggest), otherwise, one would be precluded from using the spiral spring and spring cover plate in the resulting modification since the ratchet plates would prevent the spiral spring and spring cover plate from being assembled over the ratchet plates and onto the hub assembly.

In either case, it is clear that if one tried to modify Shea et al. in view of Li as the Examiner suggests, the result would be contrary to and destroy the teachings of Shea et al.

As held by the Board of Patent Appeals in *Ex parte Hartmann*:

References cannot properly be combined if effect would destroy invention on which one of reference patents is based. *Ex parte Hartmann*, 186 USPQ 366 (PTO Bd App 1974)

Claim 1 requires that the hub assembly is a one-piece cast or molded assembly that comprises, as a single unitary structure, the latch gear and a substantially cylindrical surface upon

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

which a hose can be wound. Independent claims 10 and 18 require additional elements be integrally formed.

The use of a one-piece cast or molded assembly allows for simplification and easy assembly of applicant's claimed hose reel which has been particularly designed to accommodate design limitations dictated by molding and casting operations. So far as applicant is aware there are no hose reels that include a one-piece cast or molded hub assembly according to the present invention.

It is important for the Examiner to realize that applicant's invention is not merely the adaptation of a known hose reel structure to have an integral sub-assembly or combined arbitrary elements as an integral portion.

Rather, applicant's invention involves a novel hose reel that includes structural features that are not found in, or suggested by, any known prior art hose reels.

Certainly Li teaches or suggests that a reel can be integrally formed with one rim board.

However, none of the prior art of record, or known to applicant, teaches or even suggests a structure which combines applicant's claimed elements in a novel integral assembly.

The Examiner even acknowledges that (it if were possible) modifying Shea et al. in view of Li would reduce labor costs.

Certainly the Examiner can appreciate that applicant's invention, which is directed to a structure that is not obvious over Shea et al. in view of Li provides benefits much greater than these prior art devices.

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

The Examiner has relied upon Li '204 as teaching a plurality of mechanical fasteners that extend through a pair of spool flanges.

The Examiner's further reliance upon Li '204 does not address or overcome the structural differences that distinguish applicant's claimed invention over the combination of Shea et al. and Li

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicant's claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejections of the claims and an early allowance of the claims is believed to be in order.

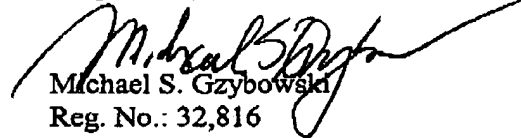
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

Appl. No. 10/698,720
Amdt. Dated July 11, 2005
Reply to Office Action of March 9, 2005

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,


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